REMARKS

The above-identified application is United States application serial number 10/676,637 filed on October 1, 2003. Withdrawn claims 56, 71, 76, and 86 have been canceled. Claims 1, 3-40, 42, 44-55, 57-67, 69-70, 72, and 74-85 are pending in the application and are rejected. Applicant respectfully traverses these rejections.

Claim Rejections Under 35 USC 101

Claims 1, 3-40, 42, 44-55, 57-67, 69-70, 72, and 74-85 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In response, independent claim 1 is a computer implemented method, which is statutory subject matter according to "The Manual of Patent Examining Procedure" (MPEP) Section 2106.01(I). ("When a computer program is claimed in a process where the computer is executing the computer program's instructions, USPTO personnel should treat the claim as a process claim.")

Regarding claims 42 and 57, MPEP Section 2106.01(I) states "a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory." Claims 42 and 57 recite "tangible computer readable medium with logic instruction means executable by a computer processor including" and thus include statutory subject matter.

Claims 3-40; 44-55; 58-67 and 69-70; and 74-85 depend from respective claims 1, 42, 57, and 72 and are thus directed to statutory subject matter as well. Removal of the rejection of claims 1, 3-40, 42, 44-55, 57-67, 69-70, 72, and 74-85 under 35 U.S.C. 101 is respectfully requested.

Claim Rejections Under 35 USC 103

Claims 1, 3-36, 39-40, 42, 44-55, 57-67, 69-70, 72, 74-85, are rejected under 35 U.S.C. 103(a) as being unpatentable over Trcka *et al.* (US 6,453,345 B2), and further in view of Roesch *et al.* (US 7,240,368 B1).

Independent claim 1 recites "determining whether a source address for a first packet sent by the source address to a destination address qualifies as a threat, and when the source address qualifies as the threat, determining whether the destination address is synthetic". Independent claims 42, 57, and 72 recite similar features. In contrast, neither Trcka nor Roesch, alone or in combination, disclose or suggest these features. Trcka teaches detecting whether incoming packets are from sources known to be a threat, but does not teach determining whether the destination address is synthetic. Roesch is cited as teaching determining whether the destination address is synthetic, however, Roesch does not determine whether the destination address is synthetic based on when the source address qualifies as a threat. Roesch simply assumes the source is an intruder and separates packets based on destination address. (Roesch, col. 7 lines 63-66). Trcka would not have to determine whether the source address of a packet qualifies as a threat if Trcka is combined with Roesch since Roesch assumes that the source is an intruder. Thus, the combination of Trcka and Roesch does not include all of the features of claims 1, 42, 57, and 72 because neither Trcka or Roesch, alone or in combination, discloses or suggests the sequence of determining whether the source address qualifies as a threat and then determining whether the destination address is synthetic. Further, one skilled in the art would not be motivated to combine Trcka and Roesch because Roesch only looks at whether the destination address is synthetic and does not need to determine whether the source address is a threat. Claims 1, 42, 57, and 72 are distinguishable from Trcka and Roesch alone and in combination, for at least these reasons.

Claims 3-36, 39-40, 44-55, 57-61, 69-70, and 74-85 depend from respective claims 1, 42, 57, and 72 and include features that further distinguish them from the prior art.

Applicant notes that no rationale was provided for rejecting claims 6-15, 16-20, 24, 25, 29-35, 37, 38, 47-49, 62-66, 77-79, 83, and 84 other than the rejection under 35 USC 101, which Applicant believes has been traversed. Applicant believes claims 6-15, 16-20, 24, 25, 29-35, 37, 38, 47-49, 62-66, 77-79, 83, and 84 are now allowable, and requests grounds for rejecting the claims in the event they are not considered allowable.

CONCLUSION

The application, including remaining Claims 1, 3-40, 42, 44-55, 57-67, 69-70, 72, and 74-85, is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephone interview, the examiner is requested to contact the undersigned at (949) 350-7301.

Respectfully submitted,

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I hereby certify that this correspondence is being transmitted to the USPTO on the date shown below:

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April 24, 2008
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